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OFFICE OF PETITIONS

In re Application of
Arnold, et al.
Application No. 10/816,587
Filed: March 31, 2004
Attorney Docket No. 07844-
637001/P590

:
: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:
:

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT (PTA) PURSUANT TO COMMENT 43 OF THE FINAL RULE (09/18/00) AT ALLOWANCE OF APPLICATION," filed March 2, 2007, notifying the Office of an error in Applicant's favor in the initial determination of patent term adjustment under 35 U.S.C. § 154(b).

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is **one hundred forty-eight (148)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On December 4, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is one hundred ninety-seven (197) days.

The Office initially determined a patent term adjustment of one hundred ninety-seven (197) days based on an adjustment for PTO delay of two hundred eighteen (218) days, pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1), reduced by applicants' delay of twenty-one (21) days pursuant to 35 U.S.C. 154(b)(2)(C)(i) and 37 C.F.R. § 1.704(b). The adjustments have been reviewed and found to be correct. Applicants state that they should have been assessed additional delay.

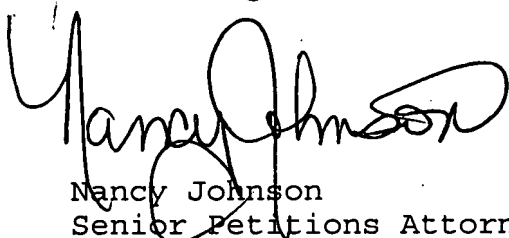
A review of the record reveals that the Office mailed a non-final Office action on January 4, 2006. Applicants filed a response on April 25, 2006 (made timely for purposes of avoiding abandonment by obtaining a one month extension of time), and were properly assessed delay of twenty-one (21) days pursuant to 37 C.F.R. § 1.704(b). However, on June 13, 2006, applicants filed an Information Disclosure Statement (IDS). The IDS was not requested by the examiner within the meaning of 37 C.F.R. § 1.704(c)(8). Moreover, the IDS did not include a § 1.704(d) statement. Accordingly, applicants should have been assessed forty-nine (49) additional days of delay pursuant to 37 C.F.R. § 1.704(c)(8), for filing a supplemental paper.

In view thereof, the correct determination of PTA at the time of the mailing of the Notice of Allowance is **one hundred forty-eight (148)** days (218 days of PTO delay, reduced by 70 (21 + 49) days of Applicant delay).

No petition fee was required. The Office thanks Applicants for their good faith and candor in bringing this matter to the attention of the Office.

The matter is being forwarded to the Group Art Unit 2628 for consideration of the RCE filed April 17, 2007.

Telephone inquiries specific to this letter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Wednesday

PALM INTRANET

Date: 9/12/2007

Time: 17:39:19

PTA Calculations for Application: 10/816587

Application Filing Date:	03/31/2004	PTO Delay (PTO):	218
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	21
Post-Issue Petitions:	0	Total PTA (days):	148
PTO Delay Adjustment:	-49		

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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